

AMENDED IN SENATE JUNE 15, 2005

AMENDED IN ASSEMBLY APRIL 13, 2005

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 21

Introduced by Assembly Member Levine
(Coauthors: Assembly Members Berg, Chavez, Cohn, De La
Torre, Evans, Goldberg, Jones, Koretz, Laird, Lieber,
Montanez, Nava, and Ruskin)

December 6, 2004

An act to add ~~Section 4069~~ *Sections 4069 and 4316* to the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 21, as amended, Levine. Pharmacists: ~~dispensing~~ *practice* requirements.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and makes a violation of that law a crime *and subject to the assessment of a fine by the board*. Under existing law, a prescription may be lawfully dispensed only by a pharmacist, unless otherwise specified by the Pharmacy Law.

This bill would require a pharmacist to dispense a prescription except in specified circumstances. The bill would allow a pharmacist to decline on ethical, moral, or religious grounds to dispense a drug pursuant to a lawful request only if he or she satisfies certain conditions. The bill would make a violation of ~~its~~ *those* provisions unprofessional conduct *and would also make harassment, as specified,*

of a patient by a pharmacist unprofessional conduct, subject to disciplinary action by the board.

Because the bill would specify ~~an additional requirement~~ *violations* under the Pharmacy Law, ~~a violation of which would be punishable as a crime~~, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Women's Contraceptive and Pharmaceutical Freedom Act of
3 2005.

4 ~~SECTION 1.—~~

5 SEC. 2. Section 4069 is added to the Business and
6 Professions Code, to read:

7 4069. (a) Notwithstanding any other provision of law, a
8 pharmacist shall dispense a lawful prescription unless one of the
9 following circumstances exists:

10 (1) The pharmacist determines, based on his or her
11 professional training and judgment, that dispensing the
12 prescription is contrary to law or, after consulting with the
13 patient's prescriber, that it is contraindicated for the patient.

14 (2) The pharmacy does not have the prescribed trade or brand
15 name drug in stock. The pharmacist shall offer the patient
16 another drug product, if available, with the same active chemical
17 ingredients of the same strength, quantity, and dosage form and
18 of the same generic drug name, as determined by the United
19 States Adopted Names and accepted by the federal Food and
20 Drug Administration, as the prescribed drug product and follow
21 the procedure or protocol described in Section 4073.

22 (3) (A) The pharmacist elects to refuse on ethical, moral, or
23 religious grounds to dispense a drug pursuant to a lawful request.
24 A pharmacist may decline to dispense a drug on these grounds

only after notifying his or her employer in writing of his or her objections. The pharmacist shall provide this notification upon acceptance of employment and immediately after any change to that decision.

(B) An employer shall, upon receipt of the notification described in subparagraph (A), establish a policy and protocol to accommodate the patient's ~~needs~~ *need* for the drug.

(b) An employer shall not withdraw an offer of employment or terminate employment based on the notification or change in the notification, as described in subparagraph (A) of paragraph (3) of subdivision (a).

(c) A violation of this section by a pharmacist constitutes unprofessional conduct for the purposes of Section 4301, subject to disciplinary action by the board.

SEC. 3. Section 4316 is added to the Business and Professions Code, to read:

4316. It shall constitute unprofessional conduct and a violation of this chapter for a pharmacist to harass a patient by engaging in extreme or outrageous conduct and intentionally causing the patient emotional distress or by engaging in conduct with reckless indifference to the likelihood of causing the patient emotional distress. For these purposes, the emotional distress shall be actual and severe as determined by a reasonable person.

~~SEC. 2.—~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.